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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,807	09/12/2001	Irwin Jerold Singer	17037B	8210

7590

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EXAMINER

AUGHENBAUGH, WALTER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,807

Applicant(s)

SINGER ET AL.

Examiner

Walter B Aughenbaugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-26 and 28, drawn to a sensitive surface protective material and storage sleeve, classified in class 428, subclass 35.2.
 - II. Claim 27, drawn to a method of protecting a sensitive surface, classified in class 15, subclass 1.51.
2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process such as filtering particles from an air stream.
3. During a telephone conversation with Ralph H. Dean, Jr. on October 29, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-26 and 28. Affirmation of this election must be made by applicant in replying to this Office action. Claim 27 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1, 2, 12, 13, 16, 20, 23, 24 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 1 and 13, the structure intended to be recited by the limitation "a pattern having continuous bonded areas defining a plurality of discrete unbonded areas" is indefinite.

In regard to claims 2 and 24, the term "monocomponent" is misspelled.

In regard to claim 12, the claim should positively set forth the purpose of the storage sleeve and the structure necessary for carrying out the purpose, i.e., the claim is incomplete in regard to the structure of the storage sleeve. No structure is claimed for the storage sleeve; therefore, the scope of the claim cannot be ascertained.

In regard to claim 16, the claim which claim 16 depends upon must be corrected.

Claims 20 and 23 recite the limitation "multicomponent filaments" in the first line of the claims. There is insufficient antecedent basis for this limitation in the claim. Amend to "multicomponent thermoplastic filaments".

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-8 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al. in view of Tsai et al.

Stokes et al. teach, in regard to claim 1, a spunbond nonwoven web that is bonded with a pattern having continuous bonded areas defining a plurality of discrete unbonded areas (col. 3, lines 1-22). Stokes et al. teach that the spunbond nonwoven web is formed of single component or multicomponent filaments or fibers (col. 3, lines 19-30). Stokes et al. teach that thermoplastic polymeric materials are suitable materials for the fibers or filaments from which the nonwoven

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material is formed (col. 6, lines 50-53). Stokes et al. teach that the material is used in applications such as disposable personal care absorbent articles, clothing and a wide variety of other miscellaneous articles (col. 1, lines 24-27) and that the material of Stokes et al. is soft and cloth-like and, therefore, aesthetically appealing in feel (col. 2, lines 52-55). The material of Stokes et al. is therefore a sensitive surface protective material that would inherently protect a sensitive surface of an article due to its soft nature. Furthermore, the material would inherently protect the sensitive surface from damage caused by particles.

Stokes et al. fail to teach that the spunbond nonwoven web is electret treated.

However, Tsai et al. disclose a nonwoven web that is electrostatically charged (col. 1, lines 7-10 and col. 4, lines 8-10). Examiner interprets an "electret treated" web as claimed in the instant application to be equivalent to a web on which "electrostatic charges" are formed as disclosed by Tsai et al. Tsai et al. disclose that the webs have good filtering efficiencies and excellent filtration qualities (col. 9, lines 28-30), both of which are measures of the ability of a web to electrostatically attract particles (col. 7, lines 32-45). Therefore, one of ordinary skill in the art would have recognized to have formed electrostatic charges on the spunbond nonwoven web of Stokes et al. (i.e. electret treat the web) in order to electrostatically attract particles to the spunbond nonwoven web as taught by Tsai et al. in order to protect the sensitive surface from being damaged by the particles.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have electret treated the spunbond nonwoven web of Stokes et al. in order to electrostatically attract particles to the spunbond nonwoven web as taught by Tsai et al. in order to protect the sensitive surface from being damaged by the particles.

In regard to claims 2, 4 and 5, Stokes et al. teach that the fibers or filaments are single component, bicomponent or multicomponent (col. 7, lines 2-7). In regard to claim 3, Stokes et al. teach that polyolefins are suitable thermoplastics for use as the fibers (col. 6, lines 64-67); polypropylene is a notoriously well known thermoplastic used as fiber. In regard to claims 6-8, Stokes et al. teach that the bicomponent filaments are arranged in a side-by-side or a sheath/core polyethylene/polypropylene arrangement (col. 8, lines 44-48). In further regard to claim 8, Stokes et al. list the "sheath/core" components as "polyethylene/polypropylene", indicating that polyethylene is the sheath and that polypropylene is the core.

In regard to claim 11, Tsai et al. teach that the web is subjected to electric fields which are between about 1 kVDC/cm and about 12 kVDC/cm (col. 2, lines 46-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have charged the spunbond nonwoven web of Stokes et al. to about 1 kVDC/cm to about 12 kVDC/cm as taught by Tsai et al. in order to provide the web with a sufficient amount of charge to attract particles to the spunbond nonwoven web.

In regard to claim 12, Stokes et al. teach that the material is used in applications such as disposable personal care absorbent articles, clothing and a wide variety of other miscellaneous articles (col. 1, lines 24-27). Disposable personal care absorbent articles and clothing are storage sleeves.

11. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al. in view of Tsai et al., and in further view of Midkiff.

Stokes et al. and Tsai et al. teach the electret treated spunbond nonwoven web as discussed above. Stokes et al. and Tsai et al. fail to teach that the nonwoven web has a Gurley

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stiffness of less than about 80 mg, or in the range of about 15mg to about 75mg. However, Midkiff disclose webs of conjugate spunbond polypropylene and polyethylene fibers that have Gurley stiffnesses of at least 20 mg (col. 12, lines 42-49). Midkiff discloses samples that have Gurley stiffnesses of 21, 59, 72 and 85 mg (col. 11, lines 1-50 and Table 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a combination of polypropylene and polyethylene fibers as the web of Stokes et al. and Tsai et al. that yields a web with a Gurlyer stiffness of less than 80 mg or 15-75 mg, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art in the absence of unexpected results. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

12. Claims 13-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al. in view of Tsai et al., and in further view of Drew.

Stokes et al. and Tsai et al. teach the electret treated spunbond nonwoven web as discussed above. Stokes et al. and Tsai et al. fail to teach a storage sleeve comprising a second web comprising the electret treated spunbond nonwoven web interconnected to a first web to form a pocket. Drew, however, in regard to claims 13 and 16, teaches a storage sleeve comprising a first sheet (item 16) and a third sheet (item 14) and a spunbonded nonwoven polypropylene-fiber second sheet (item 18) positioned between the first and third sheets, where the first, second and third sheets are interconnected together at least on the bottom edge and two side edges to form a first pocket between the first and second sheets and to form a second pocket between the third and second sheets wherein compact discs are placed and the playing sides of the compact disks are in contact with the nonwoven sheet (col. 3, lines 42-66 and Figures 1-12;

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col. 5, lines 15-39). In regard to claims 14-15 and 17-18, Drew disclose that the first and third sheets are made of polypropylene (col.3, lines 57-62); the first and third sheets are therefore polypropylene films.

One of ordinary skill in the art would have recognized to have used the electret treated spunbond nonwoven web of Stokes et al. and Tsai et al. as the spunbonded nonwoven second sheet of the storage sleeve of Drew in order to electrostatically attract particles to the spunbond nonwoven web as taught by Tsai et al. in order to protect the playing surface of the compact discs of Drew from being damaged by particles.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the electret treated spunbond nonwoven web of Stokes et al. and Tsai et al. as the spunbonded nonwoven second sheet of the storage sleeve of Drew in order to electrostatically attract particles to the spunbond nonwoven web as taught by Tsai et al. in order to protect the playing surface of the compact discs of Drew from being damaged by particles.

The limitations of claims 19-26, which are directed entirely to the electret treated spunbond nonwoven web, were addressed in the rejection of claims 2-8 and 11.

13. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al. in view of Tsai et al., and in further view of Applicant's admission of prior art (page 1 lines 25-26). Stokes et al. and Tsai et al. teach the electret treated spunbond nonwoven web as discussed above. Stokes et al. and Tsai et al. fail to teach a stack of articles having a sensitive surface comprising the sensitive surface protecting material of Stokes et al. and Tsai et al. between each article in the stack. However, Applicants disclose that photographic transparencies are often protected by inserting a sheet of paper between each transparency. One of ordinary skill in the

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art would have recognized to have used the electret treated spunbond nonwoven web of Stokes et al. and Tsai et al. in place of the sheets of paper used to protect each photographic transparency in a stack of photographic transparencies as disclosed by Applicants in order to protect the photographic transparencies to a greater degree than is possible with paper due to the fact that particles are electrostatically attracted to the spunbond nonwoven web of Stokes et al. and Tsai et al. as taught by Tsai et al.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B Aughenbaugh whose telephone number is 703-305-4511. The examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 703-308-4251. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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Nasser Ahmad
NASSER AHMAD
PRIMARY EXAMINER
Acting SPE